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10 UNITED STATES DISTRICT COURT  
11 WESTERN DISTRICT OF WASHINGTON  
12 AT TACOMA

13 LENIER AYERS,  
14 Plaintiff,  
15 v.  
16 ROBIN ARNOLD WILLIAMS *et al.*,  
17 Defendants.

Case No. C07-5540RBL

REPORT AND  
RECOMMENDATION

**NOTED FOR:**  
**November 2, 2007**

18 This proposed action has been referred to the undersigned Magistrate Judge pursuant to 28  
19 U.S.C. § 636 (b) and local Rules MJR 3 and 4. From the pleadings it is not possible to tell if Mr.  
20 Ayers is attempting to file a Habeas Corpus Petition challenging his current confinement or a Civil  
21 Rights Action. The proposed complaint or petition is almost 160 pages of attachments, pleadings,  
22 mental health evaluations, and other papers. The court did not find a clear request for relief in the  
23 pleadings (Dkt. # 1, proposed complaint or petition). Plaintiff has applied for *in forma pauperis*  
24 status (Dkt. # 1).

25 The court is aware that Mr. Ayers recently settled a case, Ayers v Richards, 06-CV-  
26 REPORT AND RECOMMENDATION- 1

5264RBL/KLS. The proposed settlement was entered in August of 2007, prior to Mr. Ayers motion  
to proceed in this case. The terms of the settlement give Mr. Ayers \$12,000. A motion for  
disbursement of the funds was filed October 1, 2007 and is noted to be heard on October 19, 2007.

The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigence. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

Based on the above, the Court should deny plaintiff's application to proceed *in forma pauperis*. Plaintiff has not shown that is unable to pay the full filing fee to proceed with his lawsuit. The court should direct Mr. Ayers to pay the filing within 30 days of the court's order and if he fails to pay the filing fee the clerk should be directed to dismiss this matter.

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on **November 2, 2007**, as noted in the caption.

DATED this 5 day of October, 2007.

/S/ J. Kelley Arnold  
J. Kelley Arnold  
United States Magistrate Judge